

Alexandria Division

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IN FURTHER SUPPORT OF ITS MOTION TO COMPEL DISCLOSURE

In the Eastern District of Virginia, “[f]or a party to satisfy its obligations under Rule 26, a party must provide a computation of its damages. District courts have therefore held that, where a party only discloses a lump sum or merely refers to documents from which the opposing party can presume damages, the disclosing party has not met its obligation.” *Ruddy v. Bluestream Pro. Serv., LLC*, 2020 WL 13694227, at *3 (E.D. Va. 2020). 11:59 has done precisely what Judge Ellis stated was not permitted—it has produced a lump sum without any explanation of how it arrived at that number or any documents to support it.

The current disclosure document states that 11:59 has “Lost profits in the amount of \$16.3 to \$35.1 million.” (Dkt. 92-4 at 7.) How did 11:59 arrive at the number \$16.3 million? How did it arrive at the number \$35.1 million? Presumably they were the result of calculations based on numbers from some documents. What are the calculations? Where did the underlying numbers come from? Why have the documents that led to those underlying numbers not been produced?

11:59 was obligated to disclose all of this information on May 14. Now with the discovery period nearly half over, 11:59 still has not provided the Defendants this crucial information that is supposed to be supplied at the beginning of the case. There is no justification for this failure to disclose. The Court should compel immediate disclosure and award fees under Rule 37(a)(5)(A).

Dated: June 19, 2025

Respectfully submitted,

/s/ Micah E. Ticatch

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

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